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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* YOSHIO GODA, NORIO SUZUKI,  
and KIYOSHI YAMASHITA

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Appeal 2010-004204  
Application 09/980,880  
Technology Center 1700

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Before CHUNG K. PAK, CHARLES F. WARREN, and PETER F. KRATZ,  
*Administrative Patent Judges.*

PAK, *Administrative Patent Judge.*

DECISION ON APPEAL<sup>1</sup>

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's decision finally rejecting claims 1 through 5, 9, 10, and 12 through 29, all of the pending claims in the above-identified application.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6.

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<sup>1</sup> The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE" (paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

<sup>2</sup> See page 2 of the Appeal Brief ("App. Br.") filed April 21, 2008.

## STATEMENT OF THE CASE

Details of the appealed subject matter are recited in representative claims 1 and 12 reproduced from the “Claims Appendix” to the Appeal Brief as shown below:

1. A top sealing plate used for a battery, comprising:

a filter, a cap, and a valve body,

wherein said filter includes a valve hole and upper opening;

said cap has a convex portion, and a flange portion disposed around said convex portion;

an opening end of said upper opening of said filter has a bend portion;

an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and jointed to each other;

said caulked portion is formed by caulking while said outer periphery end of said flange is positioned in said bend portion;

said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;

said caulked portion includes a first contact portion and a second contact portion between the surface of the outer periphery end of said flange and said bend portion, a contact pressure of said first contact portion is stronger than a contact pressure of said second contact portion;

said outer periphery end of said flange portion includes a projection extending from at least one out of the surface and the back thereof;

said first contact portion is formed from a contact of said projection and said bend portion; and

said cap and said filter are electrically connected to each other by the contact with said outer periphery end and said bend portion at said caulked portion.

12. A top sealing plate used for a battery, comprising:

a filter, a cap, and a valve body,

wherein said filter includes a valve hole and upper opening;

said cap has a convex portion, and a flange portion disposed around said convex portion;

an opening end of said upper opening of said filter has a bend portion;

an outer periphery end of said flange portion of said cap and said bend portion include a caulked portion that is caulked and jointed to each other;

said caulked portion is formed by caulking while said outer periphery end is positioned in said bend portion;

said valve body is disposed to cover said valve hole, in a space formed between said cap and said filter;

a surface of said outer periphery end of said flange has a projection;

said outer periphery end including said projection and said bend portion are caulked;

said cap and said filter are electrically connected to each other, by contact between said outer periphery end at said caulked portion and said bend portion;

the distance from a mating face of said filter and cap to the peak of said projection is greater than the thickness of said flange portion; and

each of the peaks has a stronger contact pressure against said bend portion of said filter as compared with zones other than said peaks.

As evidence of unpatentability of the claimed subject matter, the Examiner relies on the following prior art references at pages 2 and 3 of the Answer (“Ans.”) dated June 15, 2009:

Ishizuka	US 6,019,802	Feb. 1, 2000
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Onagawa, Patent Abstracts of Japan for JP 08273649 A (1996).

Nishino, Patent Abstracts of Japan for JP 08339785 A (1996).

Appellants only seek review of the Examiner’s decision rejecting claims 1, 2, 5, 9, 10, and 12 through 29 under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Onagawa and Nishino (App. Br. 6). Appellants do not question the propriety of the Examiner’s decision rejecting claim 3 under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Onagawa and Nishino and claim 4 under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Onagawa, Nishino, and Ishizuka (App. Br. 6 and Reply Br. 1).

#### DISCUSSION

Having carefully evaluated the record, including the claims, the Specification, and the prior art relied upon by the Examiner, we reverse the Examiner’s decision rejecting claims 1, 2, 5, 9, 10, and 12 through 29 under 35 U.S.C. § 103(a) as unpatentable over the combined teachings of Onagawa and Nishino for the reasons well articulated by Appellants at pages 8 through 13 of the Appeal Brief and pages 1 through 4 of the Reply Brief. Notwithstanding the Examiner’s arguments to the contrary at page 6 of the Answer, the collective teachings of Onagawa and Nishino would have led one of ordinary skill in the art to provide a protrusion on the outer periphery of a flange portion of a cap and a gasket interposed between the protrusion

and a bend portion of a filter to improve leakage resistance as correctly asserted by Appellants (App. Br. 11-12). Nishino clearly requires employing both the protrusion and the gasket to improve leakage resistance. Nishino, Abstract. Consequently, we concur with Appellants that the collective teachings of Onagawa and Nishino would not have prompted one of ordinary skill in the art to employ a caulk portion having first and second contact portions between the surface of the outer periphery of the flange and the bend portion, with the first contact portion formed from a contact of the projection and the bend portion being stronger than a contact pressure of the second contact portion as required by the claims on appeal.

Accordingly, based on the totality of record, we concur with Appellants that the Examiner has not established a prima facie case of obviousness regarding the subject matter recited in claims 1, 2, 5, 9, 10, and 12 through 29 within the meaning of 35 U.S.C. § 103(a).

With respect to claims 3 and 4, they stand on different footing. Since Appellants concede to the Examiner's rejections of claims 3 and 4 under § 103(a), we are constrained to affirm the rejections.

#### ORDER

In view of the foregoing, the decision of the Examiner is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a) (2008).

**AFFIRMED-IN-PART**

Appeal 2010-004204  
Application 09/980,880

sld

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